AMENDMENT I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

AMENDMENT XIV

Sec. 1. Citizens of the United States.

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

THE CODE OF LAWS OF THE

UNITED STATES OF AMERICA

TITLE 42 -- THE PUBLIC HEALTH AND WELFARE

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§ 1983. Civil action for deprivation of rights

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

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FLORIDA ADMINISTRATIVE CODE

6C3-10.125 Discrimination and Harassment Complaint Procedures.

(1) Policy Statement. It is the policy of the Florida A&M University that each member of the University community be permitted to work or attend class in an environment free from any form of discrimination including race, creed, color, age, handicap, sex, marital status, national origin, veteran status, and sexual harassment, as prohibited by state and federal statues. Refer to University Rule 6C3-10.103 on non-discrimination. Accordingly, this rule establishes procedures whereby a member of the University community may file a complaint of alleged discrimination or harassment. This rule applies to students, faculty, A&P. USPS employees and applicants for admission or employment:

(2) Definition of Discrimination and Harassment.

(a) Discrimination shall include:

1. Limiting, segregating or classifying students, employees, applicants for admission, or applicants for employment, in such a way as to deprive individuals of educational or employment opportunities or otherwise adversely affect individuals because of their race, sex, national origin, marital status or handicap;

2. Denying educational or employment opportunities to individual because of their race, sex,

national origin, marital status or handicap;

3. Providing unequal educational or employment opportunities to individuals because of their race, sex, national origin, marital status or handicap;

4. Providing unnecessarily separate educational programs or activities for individuals because of their race, sex, national origin, marital status or handicap;

5. Entering into contractual or other arrangements which utilize criteria or administrative methods which have the effect of subjecting individuals to discrimination of [sic] which otherwise adversely affect individuals because of their race, sex, national origin, marital status or handicap;

6. The application of any policy or procedure or taking of any admission or employment action that adversely affects a qualified handicapped person as a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on their handicap;

7. The application of any policy or procedure or taking of any admission or employment action concerning the potential or actual marital status of a student, employee or applicant for admission or employment that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students or a group of employees on the basis of potential or actual marital status, or on the basis of head of household or principal wage earner status: however, reasonable practices prohibiting nepotism shall not constitute marital status discrimination;

8. The application of any policy or procedure or taking of any admission or employment action that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on ancestry or place of birth or of cultural, or linguistic characteristics of a national origin group.

9. The application of any policy or procedure or taking of an admission action that adversely affects a student or applicant for admission, belonging to a national origin minority group, unnecessarily based on limited-English-language skills;

10. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, a group of students, or a group of employees based on their race/ethnic category;

11. The application of any policy or procedure, or taking of any admission or employment action, that adversely affects a student, employee, applicant for admission, applicant for employment, a group of students, or a group of employees based on their gender.

(b) Harassment shall include:

1. Any slurs, innuendos or other verbal or physical conduct reflecting on an individual's race, ethnic background, gender or handicapping condition which has the purpose or effect of creating an intimidating, hostile or offensive educational or work environment; has the purpose or effect of unreasonably interfering with the individual's work or school performance or participation;

or otherwise adversely affects an individual's employment or educational opportunities.

2. The denial of or the provision of aid, benefits, grades, rewards, employment, faculty assistance, services, or treatment on the basis of sexual advances or requests for sexual favors.

3. Sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment or educational career; submission to or rejection of such conduct is used as a basis for educational or employment decisions affecting the individual; or such conduct has the purpose of effect of unreasonably interfering with an individual's work or educational performance or creating an intimidating, hostile or offensive working or educational environment.

(3) Discrimination and Implementation of Policy.

(a) It shall be the obligation of each vice president to coordinate training of appropriate faculty, administrators, supervisors and employees in implementation of this rule.

(b) Employees. It shall be the responsibility of the Office of the Vice President for Administration to disseminate discrimination and harassment policy and procedures information to all appropriate A&P and USPS employees of the University. They will be apprised of the rule by at least the following methods:

1. Upon adoption of this rule, each current

employee, and thereafter each new employee, shall be furnished with a copy of the University Policy Statement on discrimination and harassment. Said notice shall be accompanied by information stating the office, address, and telephone number of the person or persons designated by the President to receive and investigate complaints arising from matters addressed by this rule. Should this information change at any time, the University shall publish and widely disseminate notice of such change to all employees.

2. Upon adoption of this rule, each current employee and thereafter each new employee have the opportunity to discuss and ask questions, shall fully understand this rule regarding discrimination and harassment including possible discipline for any violation thereof and shall sign a written statement to that effect which shall be placed in the employee's permanent personnel file.

(c) Students. It shall be the responsibility of the Vice President for Student Affairs to disseminate the discrimination and harassment policy information to students. Students shall be made aware of this information by copies of the University Discrimination and Harassment Policy being posted on University bulletin boards and/or printed in one or more publications of general availability and circulation including, but not limited to, the Student Handbook (FANG) and/or the FAMUAN newspaper. Information shall include the office, address, and telephone number of the person or persons designated by the President to receive and investigate complaints arising from matters addressed by this rule. Should this information change at any time, the University shall publish and widely disseminate notice of such change to

the University community.

(d) Faculty and A&P Employees. It shall be the responsibility of the Office of the Vice President for Academic Affairs to disseminate the discrimination and harassment policy and procedures information to all faculty and appropriate A&P employees of the University. They will be apprised of the rule by at least the following methods.

1. Upon adoption of this rule, each current employee, and thereafter each new employee, shall be furnished with a copy of the University Discrimination and Harassment Policy. Said notice shall be accompanied by information stating the office, address, and telephone number of the person or persons designated by the President to receive and investigate complaints arising from matters addressed by this rule. Should this information change at any time the University shall publish and widely disseminate notice of such change to all employee.

2. Upon adoption of this rule, each current employee and thereafter each new employee shall have the opportunity to discuss and ask questions, shall fully understand this rule regarding discrimination and harassment including possible discipline for any violation thereof, and shall sign a written statement to that effect which shall be placed in the employee's permanent personnel file.

(4) Disciplinary Actions.

(a) Any employee of the University who is found to have discriminated against or harassed a student, employee

or an applicant for admission or employment will be subject to disciplinary action up to and including dismissal. The nature of the punishment shall be guided by the seriousness of the offense.

(b) Any student who engages in discrimination against or harassment of any employee or student may be subject to disciplinary action up to and including expulsion.

(c) Any employee in a supervisory capacity who has knowledge of a complaint or a complainable offense as defined under (2), above, involving any of those employees he/she supervises, and who does not take corrective action or report the matters directly to the President or the University EEO/EEA Officer will be subject to discipline up to and including dismissal. The nature of the punishment shall be guided by the seriousness of the offense.

(d) Any employee in a supervisory capacity who has knowledge of a complaint or complainable offense involving another supervisor, or involving an employee(s) supervised by another supervisor, or involving a student(s) in the class(es) of another supervisor's employee and who does not take appropriate corrective action or report the matter directly to the President or University EEO/EEA Officer will be subject to discipline up to and including dismissal. The nature of the punishment shall be guided by the seriousness of the offense.

(e) Any employee or student who knowingly files a false complaint of discrimination or harassment or who knowingly provides false testimony shall be subject to discipline up to and including dismissal or expulsion. The

nature of the punishment shall be guided by the seriousness of the offense.

(5) Procedure for Filing a Complaint.

(a) The President has delegated to the University EEO/EEA Officer the authority and responsibility to receive, conciliate and investigate complaints of discrimination and/or harassment, and to make recommendations to the President concerning disposition of complaints. The EEO/EEA Officer may consult with the vice president under whose administrative authority the person against whom the complaint has been lodged falls (hereafter referred to as the appropriate Vice President) in an attempt to reconcile the complaint.

(b) Any applicant for employment or admission. or an employee or student who believes that he/she is a victim of discrimination or harassment may seek guidance and counseling by requesting an interview with the EEO/EEA Officer. The Complainant will be advised of the options available through University procedures, through the collective bargaining agreement, through the Florida Commission on Human Relations, through the federal Equal Employment Opportunity Commission, and any others that may currently exist or may subsequently be enacted. The EEO/EEA Officer will also provide the opportunity to resolve the complaint informally without invoking the investigatory procedures set forth below. Any discussions at this level will be handled with utmost discretion.

(c) If the complaint cannot be resolved informally, or if the Complainant desires to avail himself/herself of the formal options available pursuant to this rule, then a

written complaint of discrimination and/or harassment must be filed on forms provided. No formal action, including investigation may be undertaken unless and until a formal complaint is filed. This provision shall not limit the University in any way from initiating its own review of the complaint and taking appropriate action should such be deemed warranted under the circumstances presented.

(d) After receiving the signed written complaint, the EEO/EEA Officer shall:

1. Notify the Complainant and the person against whom the complaint has been filed of the complaint, of the allegations contained therein and provide an opportunity for response thereto. At all points of the procedure, the Complainant and the person against whom the complaint has been filed shall be kept informed;

2. Review the complaint and determine if additional information is needed to supplement the complaint;

3. Conduct a full and complete investigation of the complaint;

4. File with the President a written report detailing the findings of the investigation and a recommendation of appropriate action;

5. The investigation conducted pursuant to this section shall be performed on a confidential basis. and all means necessary to safeguard the rights of the person against whom the complaint has been filed, the Complainant, witnesses, and any others involved in the proceedings, shall be utilized.

(e) The report and recommendation of the EEO/EEA Officer shall be submitted to the President. If, after reviewing the report and recommendation, the President determines that the complaint is without merit, the President shall render a written decision dismissing the complaint. If, after reviewing the report and recommendation, the President determines that disciplinary action is warranted, the Complainant and the person against whom the complaint has been filed will be given written notice of the proposed disciplinary action and the reasons therefor. The written notice will also advise the person against whom the complaint has been filed that he/she has the right to appear before the University Personnel Committee at an investigatory interview and submit written or oral evidence on his/her behalf. The Complainant shall be notified of any investigatory interview and shall also have the right to appear and present evidence at that time. After reviewing all of the evidence including any evidence submitted at the investigatory interview, the President shall render a written decision either dismissing the complaint or taking appropriate disciplinary action. A copy of the written decision shall be sent via certified mail and/or hand delivered to the Complainant and to the person against whom the complaint has been filed. If hand delivered, appropriate documentation shall be kept on file to substantiate the actual delivery of the written decision.

(f) Subject to the limitations set forth below in subsections (8) (a) and (b), either the Complainant or the person against whom the complaint was filed may appeal to the President for a review of his original decision, furnishing additional information as desired. After reviewing the original decision and all other evidence upon which the decision was based, the President shall render a

final written decision, either affirming, modifying, or reversing the original decision. A copy of the President's final written decision shall be sent via certified mail to the Complainant and to the person against whom the complaint has been filed.

(6) Time Limitation for Receipt of Formal Complaints, Investigation, and Disposition.

(a) Any written complaint filed under this section must be filed with the EEO/EEA Officer within sixty (60) calendar days after the alleged occurrence of the harassment incident.

(b) Upon receipt of a written complaint, the EEO/EEA Officer shall render a written report and recommendation to the President within thirty (30) working days. This time period may be extended by the EEO/EEA Officer should an extension be necessary in order to ensure a full, fair and complete investigation. The EEO/EEA Officer shall give notice to the parties if such an extension is deemed necessary.

(c) The President shall render a written decision dismissing the complaint or initiating formal action within thirty (30) working days of receipt of the EEO/EEA Officer's report and recommendation. The person against whom the complaint has been filed shall notify the President within ten (10) working days of receipt of the notice of proposed disciplinary action of his/her desire to appear before the University Personnel Committee and present written or oral evidence at an investigatory interview. In cases where an investigatory interview is conducted, the President shall render a written decision dismissing the complaint or taking disciplinary action

within twenty (20) working days after the investigatory interview.

(d) Any appeal to the President must be filed with the President within twenty (20) working days of receipt of the President's original decision. The President shall render a final written decision within twenty (20) working days of receipt of the notice of appeal.

(7) Retaliation Procedure.

(a) Complainants who feel that they have been retaliated against for exercising their rights under this rule shall have the right to file a retaliation complaint with the EEO/EEA Officer.

(b) Retaliation complaints shall be handled in the same manner and utilizing the same procedures set forth above in subsection (5).

(8) Election of Remedies; Complainant's Right to Seek Remedy Outside the University.

(a) The doctrine of election of remedies shall apply to complaints filed pursuant to this rule. Should a Complainant elect to pursue an alternative remedy available to him/her, including the filing of a grievance pursuant to the collective bargaining agreement, the filing of any such grievance shall operate as a waiver of the Complainant's right to file a complaint and avail himself/herself of the procedures available under this rule. Should a grievance be filed pursuant to an alternative remedy and subsequent to the filing of a Complaint under this rule but before proceedings under this rule have been completed, the filing of any such grievance nonetheless

will act as a waiver, and proceedings pursuant to this rule shall be terminated.

(b) The doctrine of election of remedies shall also apply to appeals filed by persons against whom a complaint has been filed. The filing of an appeal pursuant to an alternative remedy by a person against whom a complaint has been filed, including the filing of a grievance under the collective bargaining agreement or the filing of a petition for a hearing pursuant to Section 120.57, Florida Statutes, shall operate as a waiver of the right to appeal to the President pursuant to this rule.